

- Group V: compounds, compositions, and methods of use where Ar I is heterocycle, Ar II is phenyl, Z is $-\text{COOR}_{21}$ or $-\text{COR}_{21}$, and A and B are O or a chemical bond;
- Group VI: compounds, compositions, and methods of use where Ar I is heterocycle, Ar II is phenyl, Z is $-\text{CON}(\text{R}_{21})_2$ or $-\text{CONHSO}_2\text{R}_{21}$, and A and B are O or a chemical bond;
- Group VII: compounds, compositions, and methods of use where A is S, SO, or SO_2 ;
- Group VIII: compounds, compositions, and methods of use where A is NR_{13} or $\text{NR}_{14}\text{CO}-$;
- Group IX: compounds, compositions, and methods of use where A is $\text{NR}_{14}\text{CONR}_{15}-$;
- Group X: compounds, compositions, and methods of use where A is CO or CONR_{15} .
- Group XI: compounds, compositions, and methods of use where A is $\text{CR}_{14}=\text{N}-$;
- Group XII: compounds not included in Groups I-XI.

Applicants elect, with traverse, the claims of Group XII; i.e., compounds not included in Groups I-XI. Applicants respectfully request that the Examiner include within this Group claims directed to compositions and methods of use, which have been included in other groups.

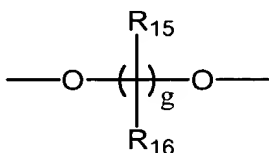
If applicants were to elect group XII, as applicants have now done, the Examiner required also an election of groups Ar I, Ar II, A, B, E, Z and $\text{R}_1\text{-R}_8$.

Applicants elect those groups as follows:

Ar I: heterocycle, optionally substituted

Ar II: phenyl, optionally substituted

A:



B: a chemical bond

E: a chemical bond

Z: non-heterocycle

c: zero

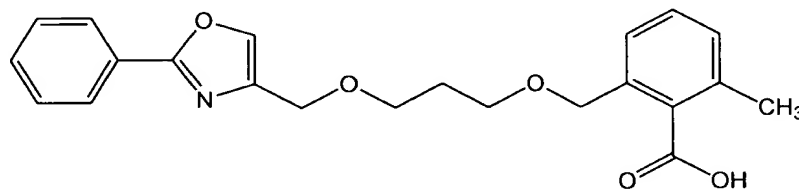
d: zero

R₁-R₄: independently, hydrogen, halogen or alkyl.

The Examiner also asked that applicants provide a listing of claims that read on the elected invention. At least the following claims read on the elected invention: 1-2, 8, 15, 26-31, 47-48, 53-59, 61-66, 91-92 and 96. The listing of the preceding claims does not in any way affect the scope of any non-listed claims. For example, the listing of claims does not constitute an admission that no other claims could cover a compound within the elected invention under the doctrine of equivalents.

II. Election of species requirement

The Examiner also required an election of species. Applicants elect, with traverse, the compound of Example 51 on page 95, lines 12-17 of the specification; i.e., 2-Methyl-6-[3-(2-phenyl-oxazol-4-ylmethoxy)-propoxymethyl]-benzoic acid. The structure of the compound is as follows:



Example 51

In a telephone conversation with the Examiner on June 27, 2001, the undersigned requested clarification of what appeared to be multiple election of species requirements set forth at the end of ¶ 1 of the Office Action and in ¶¶ 3-4 of the Office Action. The Examiner indicated that the election of a single disclosed

compound for initiating examination, as now done by the applicants, would constitute a full and complete reply to the election requirements.

The Examiner also asked that applicants provide a listing of claims that read on the elected species. At least the following claims read on the elected compound: 1-2, 29-31, 53-59, 61-66 and 91-92. The listing of the preceding claims does not in any way affect the scope of any non-listed claims. For example, the listing of claims does not constitute an admission that no other claims could cover the elected compound under the doctrine of equivalents.

III. Traversal of the restriction and election of species requirements

Applicants traverse both the restriction and election requirements. The Examiner has not established that the inventions subject to election are independent or distinct as required under MPEP 803. In particular, the Examiner must provide reasons and/or examples to support the conclusions of independence or distinctness. The Examiner also has not made a sufficient showing of a serious burden if all inventions were to be examined together.

Lastly, the Examiner stated in ¶ 5 of the Office Action that "[a]ryl as represented by phenyl or naphthalene, and heteroaryl or heteroaryheterocyclenyl rings e.g. pyridine, furan etc are not patentably distinct." Applicants do not understand this point. Applicants do not acquiesce in that statement either, so applicants cannot be assumed to have agreed with or otherwise approved of that statement.